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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

YIMAM, HARUN M

ART UNIT

PAPER NUMBER

2623

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/001,298

Applicant(s)

BARRETT, PETER T.

Examiner

Harun M. Yimam

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-26 and 28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 and 28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**Note to Applicant**

Art Units 2611, 2614 and 2617 have changed to 2623. Please make all future correspondence indicate the new designation 2623.

**DETAILED ACTION**

***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/14/2006 has been entered.

***Response to Arguments***

2. Applicant's arguments filed 05/08/06 with respect to claims 1 – 26 have been fully considered but are moot in view of the new grounds of rejection.

Although a new ground of rejection has been used to address additional limitations that have been added to claims 1, 3, 4, 25 and a newly added claim 28, a response is considered necessary for several of applicant's arguments since references Zigmond (US 6,698,020) will continue to be used to meet several claimed limitations.

3. In response to applicant's argument (page 10, 3<sup>rd</sup> paragraph) that Zigmond fails to teach or suggest causing the video segment to be displayed in a window on the display device, applicant should note that Zigmond explicitly discloses causing the video segment to be displayed in a window on the display device i.e., on a display screen. Claim 1 does NOT call for a secondary window, as claimed in claim 3, for displaying said video segment other than the main window on the display device. Therefore, the main window of the display device is the window to display said video segment.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 2, 12, 13, 15, 16, 18 and 21-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Zigmond et al. (US 6,698,020).

Considering claims 1 and 25, Zigmond discloses a method using a computer readable medium, the method comprising: In a video receiver that is coupled to a

display device, the video receiver configured to locally receive a stream that includes a plurality of video segments (figures 3, 4, 5, 7 and 8), a method of locally processing remotely issued instructions contained in the stream so that the video receiver can be used for targeting the plurality of video segments based on local information accessible to the video receiver and based on the remotely issued instructions (figs. 5 and 6 and col. 10, lines 48-64), the method comprising the following:

monitoring state and user behavior characteristics associated with the video receiver (col. 6, lines 1-11; col. 7, lines 26-36 and col. 11, lines 30-49);

locally storing the characteristics only at the video receiver (viewer response information remains at ad insertion device—col. 9, lines 39-55);

receiving at the video receiver a plurality of video segment from the stream (see figures 3, 5, 7 and 8);

receiving at the video receiver remotely issued executable instructions from the stream, the remotely issued executable instructions configured to cause the video receiver to select a particular video segment from among the plurality of video segments based on the locally stored characteristics when the remotely issued executable instructions are locally processed by a processor at the video receiver (col. 11, lines 30-65);

processing the remotely issued executable instructions using the locally stored characteristics to cause the video receiver to select the particular video segment (col. 11, lines 30-65);

causing the selected particular video segment to be displayed in a window on the display device (col. 11, lines 30-65).

As to claim 2, Zigmond discloses  
processing the executable instructions to cause the video receiver to select the video segment comprises processing the executable instructions to cause the video receiver to select a video advertisement; and

causing the video segment to be displayed on the display device comprises causing the video advertisement to be displayed on the display device (col. 11, lines 30-65).

With regards to claims 12 and 26, Zigmond discloses caching the plurality of video segments as they are received (data that is received at any point in time is effectively *cached*—col. 11, lines 30-65).

Regarding claim 13, Zigmond discloses releasing the cache memory associate with a particular video segment if the video receiver determines that the particular video segment is not to be displayed (since memory has finite space, video segment that are not used are effectively removed at some point—col. 11, lines 30-65).

Considering claim 15, Zigmond discloses receiving a plurality of video segment from the video stream comprises:

receiving the plurality of video segments from a plurality of video streams; and  
switching display between the plurality of video streams based on the executable  
instructions (see 62 and 66 in fig. 4 and col. 16, lines 30-43).

As to claim 16, Zigmond discloses that the video stream is a unidirectional video  
stream (video is being sent downstream, and not upstream—figures 3, 4, 5, 7 and 8).

With regards to claim 18, Zigmond discloses that the locally stored  
characteristics include historical information about channels tuned to (col. 11, lines 13-  
30).

Regarding claim 21, Zigmond discloses that the locally stored information  
includes historical information about advertisements displayed (col. 9, lines 39-55).

Considering claim 22, Zigmond discloses that the historical information about  
advertisements displayed comprises an identifier identifying at least some of the  
advertisements previously displayed (col. 9, lines 20-39).

As to claim 23, Zigmond discloses that the historical information about  
advertisements displayed comprises a time that the corresponding advertisement was  
last displayed (col. 13, lines 40-47).

With regards to claim 24, Zigmond discloses that the video receiver locally stores the characteristics without revealing the characteristics outside of the video receiver (met as discussed in claim 1).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond (US 6,698,020) in view of Alexander (US 6,177,931).

Considering claim 3, Zigmond further discloses  
locally receiving primary content (video programming);  
causing the primary content to be displayed on the display device in accordance with a selection made by a viewer of the primary content (column 17, lines 21-23); and  
Zigmond further discloses displaying an additional window on the display device simultaneously with the primary content (col. 18, line 63 – col. 19, line 23)

However, Zigmond discloses that what's displayed in said additional window on the display device is "a visually displayed object that offers the viewer access to further information relating to the topic or subject that is simultaneously displayed on the video programming of display device<sup>58</sup>" (column 19, lines 5-9) and fails to explicitly disclose displaying a video segment in said window simultaneously with the primary content.

In analogous art, Alexander discloses displaying a video segment (video clips—column 32, lines 47-51 and column 34, lines 15-16) displayed in a window on a display device simultaneously with a primary content (see figure 1 wherein window 12 displays the primary content and windows 14 and/or 16 simultaneously display said video segment).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to include display of a video segment in a window simultaneously with a primary content, as taught by Alexander, for the benefit of presenting targeted advertisement to the viewer without interrupting the display of the main video program.

8. Claims 4-7 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond (US 6,698,020) in view of Knudson (US 2005/0216936).

As to claim 4, displaying material outside of the window, see claims 5-7.

With regards to claim 5, it is met by the combination of Zigmond and Knudson. In particular, Knudson discloses displaying material outside of the window comprises displaying television programming outside of the window (Knudson—program listings are effectively “television programming” fig. 22, region 262 [0095]).

Regarding claim 6, it is met by the combination of Zigmond and Knudson. In particular, Knudson discloses displaying material outside of the window comprises displaying network resources outside of the window (applicant defines network as Web pages “network resources such as Web pages”. Knudson discloses users ordering information, products, or services through the Internet [0049]).

Considering claim 7, it is met by the combination of Zigmond and Knudson. In particular, Knudson discloses displaying material outside of the window comprises displaying Web content outside of the window (see claim 6).

As to claim 28, it is met by the combination of Zigmond and Knudson. In particular, Knudson discloses that the locally received data includes a list of video segments and a schedule of particular times video segments are to be displayed (Knudson— paragraph 0095, lines 8-10).

9. Claims 8-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Zigmond (US 6,698,020) in view of Ching et al. (US 2001/0003184).

As to claim 8, Zigmond fails to explicitly disclose causing a still picture to be displayed on the display device when the video segment is not being displayed on the display device.

In analogous art, Ching discloses causing a still picture to be displayed on the display device when the video segment is not being displayed on the display device [0128].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to include causing a still picture to be displayed on the display device when the video segment is not being displayed on the display device, as taught by Ching, for the benefit of enabling the user to view an advertisement while waiting for a video stream (Ching—[0128]).

With regards to claim 9, it is met by the combination of Zigmond and Ching. In particular, Ching discloses receiving the still picture from the stream (Ching—[0128]).

Regarding claim 10, it is met by the combination of Zigmond and Ching. In particular, Ching discloses causing a still picture to be displayed on the display device in the window when the video segment is not being displayed on the display device comprises causing a banner advertisement to be displayed on the display device in the window when the video segment is not being displayed on the display device (Ching—[0128]).

Considering claim 11, although the Zigmond in view of Ching does not specifically disclose that the executable instructions are first executable instructions, wherein the method further comprising: receiving second executable instructions from the video stream, the second executable instructions configured to cause the video receiver to select the still picture from among a plurality of still pictures based on the locally stored characteristics when the second executable instructions are processed by a processor; processing the second executable instructions to cause the video receiver to select the still picture, the examiner takes Official Notice that it is notoriously well known in the art to utilize targeted still pictures based on user characteristics.

These concepts are well known in the art and do not constitute a patentably distinct limitation, per se [MP.E.P. 2144.03].

Therefore, it would have clearly been obvious to one of ordinary skill in the art to modify Zigmond to include the use targeted still based pictures based on user characteristics, as taught by Ching, for the benefit of providing a more desirable and effective still pictures for both the user and marketing entity.

10. Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Zigmond (US 6,698,020) in view of Flickinger et al. (US 2005/0210502).

As to claim 14, Zigmond fails to explicitly disclose causing the video segment to be displayed on the display device comprises: causing the video segment to be displayed as the video segment is being received from the video segment, wherein the executable instructions contain a trigger that coordinates the start of display of the video segment with the time that the video segment is received by the video receiver.

In analogous art, Flickinger discloses causing the video segment to be displayed on the display device comprises: causing the video segment to be displayed as the video segment is being received from the video segment, wherein the executable instructions contain a trigger that coordinates the start of display of the video segment with the time that the video segment is received by the video receiver (Streaming media; there exists instructions which trigger or cue the 'start of display' of the streaming media. Since the media segments cannot be displayed before they are received, the 'start of display' is effectively 'coordinated' to display after receiving the segment [0062]; [0075]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to include triggers within the executable

instructions that coordinate the start of display of the video segment, as taught by Flickinger, for the benefit of enabling the viewer to view the video before it is fully downloaded, as an advantage to systems with low or medium width channels (Flickinger—[0062]).

11. Claim 17 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Zigmond (US 6,698,020) in view of Thomas et al. (US 2005/0251824).

As to claim 17, Zigmond fails to explicitly disclose the locally stored characteristics include channel subscription information.

In analogous art, Thomas discloses the locally stored characteristics include channel subscription information (since 'each user may set up a profile with a different set of favorite channels,' favorite channels, to which the user is subscribed to is effectively stored as well [0072]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to include channel subscription information, as taught by Thomas, for the benefit of facilitating the delivery of targeted content by providing an additional criteria (Thomas—[0069]).

12. Claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Zigmond (US 6,698,020) in view of Ohkura et al. (6347400).

As to claim 19, Zigmond fails to explicitly disclose the locally stored information includes historical information about pay per view purchases.

In analogous art, Ohkura discloses that the locally stored information includes historical information about pay per view purchases ([11, 60] to [12, 5]; [14, 66] to [15,2]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Zigmond to include historical information about pay per view purchases in the locally stored information, as taught by Ohkura, for the benefit of facilitating the delivery of targeted content by providing an additional criteria.

As to claim 20, Ohkura discloses the historical information about pay per view purchases includes the identification of the last pay per view purchase ([11, 60] to [12, 5]; [14, 66] to [15,2]).


**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harun M. Yimam whose telephone number is 571-272-7260. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HMY

  
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